

ASSEMBLY BILL

No. 2686

Introduced by Assembly Member Mullin

February 19, 2016

An act to amend Sections 4000.5 and 4001 of, and to add Section 4002 to the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2686, as introduced, Mullin. Elections: all-mailed ballot elections.

Existing law authorizes, until January 1, 2021, San Diego County to conduct, as a pilot program, an all-mailed ballot special election or special consolidated election to fill a congressional or legislative vacancy. Existing law provides that a special election to fill a vacancy in a congressional or legislative office may be conducted as an all-mailed ballot election if, among other requirements, the Board of Supervisors of San Diego County, by resolution, authorizes the use of mailed ballots for the election and the congressional or legislative district lies wholly within San Diego County.

This bill would authorize a special election to fill a vacancy in a state office, the Legislature, or Congress to be conducted wholly by mail if, among other requirements, the legislative body or the governing body of the eligible entity, by resolution, authorizes the all-mailed ballot election and notifies the Secretary of State of its intent to conduct an all-mailed ballot election at least 88 days before the date of the election. The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4000.5 of the Elections Code is amended to read:

4000.5. (a) Notwithstanding Section 4000 or any other law, as a pilot program, an all-mailed ballot special election or special consolidated election in San Diego County may be conducted by an eligible entity if the special election or special consolidated election is any of the following:

~~(1) A special election to fill a vacancy in a congressional or legislative office.~~

~~(2)~~

(1) A special election to fill a vacancy in the legislative body or governing body.

~~(3)~~

(2) A special election conducted pursuant to Chapter 2 (commencing with Section 9100), Chapter 3 (commencing with Section 9200), Chapter 4 (commencing with Section 9300), Chapter 5 (commencing with Section 9400), or Chapter 6 (commencing with Section 9500) of Division 9.

(b) A special election or special consolidated election described in paragraphs (1) to (3), inclusive, and (2) of subdivision (a), may be conducted wholly as an all-mailed ballot election if ~~all~~ *both* of the following apply:

~~(1) (A) For a special election to fill a vacancy in a congressional or legislative office, the Board of Supervisors of San Diego County, by resolution, authorizes the use of mailed ballots for the election and the congressional or legislative district lies wholly within San Diego County. The legislative body or governing body of the eligible entity, by resolution, authorizes the use of mailed ballots for the election.~~

~~(B) For all other special elections the legislative body or governing body of the eligible entity, by resolution, authorizes the use of mailed ballots for the election.~~

(2) The election does not occur on the same date as a statewide direct primary election, statewide general election, or any other election conducted in an overlapping jurisdiction that is not consolidated and conducted wholly by mail.

(3) (A) If the boundaries of the jurisdiction of the eligible entity overlap with the boundaries of a city, at least one ballot dropoff

1 location is provided per city that is open during business hours to
2 receive voted ballots beginning not less than seven days before
3 the date of the election.

4 (B) The number of dropoff locations in unincorporated areas
5 shall be based on the number of unincorporated registered voters
6 divided by 100,000 (rounded to the next whole number) with no
7 less than one location to be selected.

8 (C) A ballot dropoff location provided for under this section
9 shall consist of a locked ballot box located in a secure public
10 building that meets the accessibility requirements for a polling
11 place.

12 (4) On at least one Saturday and Sunday on or after the date the
13 elections official first delivers ballots to voters, the elections official
14 allows any voter to vote the ballot at a satellite location within the
15 jurisdiction of the eligible entity pursuant to Section 3018. The
16 elections official shall determine the hours of operation for each
17 Saturday and Sunday, provided that the satellite location is open
18 to voters for a minimum of six hours on each designated Saturday
19 and Sunday.

20 (5) (A) At least one polling place is provided per eligible entity
21 or the polling places are fixed in a manner so that there is one
22 polling place for every 10,000 registered voters within the
23 jurisdiction of the eligible entity, as determined on the 88th day
24 before the day of the election, whichever results in more polling
25 places. A polling place shall allow a voter to request and vote a
26 ballot between 7 a.m. and 8 p.m. on the day of the election.

27 (B) The polling places provided under this section shall be
28 established in accordance with the accessibility requirements
29 described in Article 5 (commencing with Section 12280) of Chapter
30 3 of Division 12, the federal Americans with Disabilities Act of
31 1990 (42 U.S.C. Sec. 12101 et seq.), the federal Help America
32 Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), and the federal
33 Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.), and
34 shall, to the extent possible, ensure that access is evenly distributed
35 throughout the jurisdiction of the eligible entity.

36 (C) The polling places provided under this section shall be
37 established at accessible locations and shall be equipped with
38 voting units or systems that are accessible to individuals with
39 disabilities and that provide the same opportunity for access and
40 participation as is provided to voters who are not disabled,

1 including the ability to vote privately and independently in
2 accordance with Sections 12280 and 19240.

3 (D) If a polling place consolidates one or more precincts for
4 which the elections official is required to recruit precinct board
5 members who are fluent in a language in addition to English
6 pursuant to the federal Voting Rights Act of 1965 (52 U.S.C. Sec.
7 10101 et seq.), the elections official shall ensure that the polling
8 place is staffed by precinct board members who speak that
9 language.

10 (E) If a polling place consolidates one or more precincts for
11 which the elections official is required to recruit precinct board
12 members who are fluent in a language in addition to English
13 pursuant to subdivision (c) of Section 12303, the elections official
14 shall make reasonable efforts to ensure that the polling place is
15 staffed by precinct board members who speak that language.

16 (6) (A) The elections official delivers to each voter all supplies
17 necessary for the use and return of the mail ballot, including an
18 envelope for the return of the voted mail ballot with postage
19 prepaid.

20 (B) The elections official delivers to each voter, with either the
21 sample ballot sent pursuant to Section 13303 or with the voter's
22 ballot, all of the following:

23 (i) A notice, translated in all languages required under
24 subdivision (c) of Section 14201 and Section 203 of the federal
25 Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.), that
26 informs voters of all of the following:

27 (I) An all-mailed ballot election is being conducted and each
28 eligible voter will receive a ballot by mail.

29 (II) The voter may cast a ballot in person at a satellite location
30 provided for under paragraph (4) or at a polling place on election
31 day.

32 (III) The voter may request the elections official to send a vote
33 by mail ballot in a language other than English pursuant to Section
34 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101
35 et seq.) or a facsimile copy of the ballot printed in a language other
36 than English pursuant to Section 14201.

37 (ii) A list of the ballot dropoff locations, satellite locations, and
38 polling places established pursuant to this section. The list shall
39 also be posted on the Internet Web site of the elections official.

1 (iii) A postage-paid postcard that the voter may return to the
2 elections official for the purpose of requesting a vote by mail ballot
3 in a language other than English.

4 (7) (A) The elections official submits to the Secretary of State
5 a voter education and outreach plan to be implemented by the
6 eligible entity for any election conducted pursuant to this section.
7 The voter education and outreach plan shall include, but shall not
8 be limited to, all of the following:

9 (i) One education and outreach meeting that includes
10 representatives, advocates, and other stakeholders representing
11 each community for which the eligible entity is required to provide
12 voting materials and assistance in a language other than English
13 under subdivision (c) of Section 14201 and the federal Voting
14 Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

15 (ii) One education and outreach meeting that includes
16 representatives from community organizations and individuals
17 that advocate on behalf of, or provide services to, individuals with
18 disabilities.

19 (iii) At least one in-person bilingual voter education workshop
20 for each language in which the eligible entity is required to provide
21 voting materials and assistance under subdivision (c) of Section
22 14201 and the federal Voting Rights Act of 1965 (52 U.S.C. Sec.
23 10101 et seq.).

24 (iv) At least one in-person voter education workshop to increase
25 accessibility for participation of eligible voters with disabilities.

26 (v) A toll-free voter assistance hotline maintained by the
27 elections official that is operational no later than the date that vote
28 by mail ballots are mailed to voters until 5 p.m. on the day after
29 the special election. The toll-free voter assistance hotline shall
30 provide assistance to voters in all languages in which the eligible
31 entity is required to provide voting materials and assistance under
32 subdivision (c) of Section 14201 and the federal Voting Rights
33 Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

34 (vi) At least one public service announcement in the media,
35 including newspapers, radio, and television, that serve
36 English-speaking citizens for purposes of informing voters of the
37 upcoming election and promoting the toll-free voter assistance
38 hotline.

39 (vii) At least one public service announcement in the media,
40 including newspapers, radio, and television, that serve

1 non-English-speaking citizens for each language in which the
2 eligible entity is required to provide voting materials and assistance
3 under subdivision (c) of Section 14201 and the federal Voting
4 Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) for purposes of
5 informing voters of the upcoming election and promoting the
6 toll-free voter assistance hotline.

7 (viii) A voter education social media strategy that is developed
8 in partnership with community organizations and individuals that
9 advocate on behalf of, or provide services to, non-English-speaking
10 individuals and individuals with disabilities.

11 (B) The voter education and outreach plan shall be posted on
12 the Internet Web site of the Secretary of State and on the Internet
13 Web site of the elections official.

14 (c) Except as otherwise provided in this section, the election
15 day procedures shall be conducted in accordance with Division
16 14 (commencing with Section 14000).

17 (d) The elections official may provide, at his or her discretion,
18 additional ballot dropoff locations and polling places for purposes
19 of this section.

20 (e) The return of voted mail ballots is subject to Sections 3017
21 and 3020.

22 (f) (1) If the eligible entity conducts a special election pursuant
23 to this section, it may process vote by mail ballot return envelopes
24 beginning 29 days before the election. Processing vote by mail
25 ballot return envelopes may include verifying the voter's signature
26 on the vote by mail ballot return envelope and updating voter
27 history records.

28 (2) If the eligible entity conducts a special election pursuant to
29 this section, it may start to process vote by mail ballots on the 10th
30 business day before the election. Processing vote by mail ballots
31 includes opening vote by mail ballot return envelopes, removing
32 ballots, duplicating any damaged ballots, and preparing the ballots
33 to be machine read, or machine reading them, but under no
34 circumstances shall a vote count be accessed or released until 8
35 p.m. on the day of the election.

36 (g) Results of any vote by mail ballot tabulation or count shall
37 not be released before the close of the polls on the day of the
38 election.

39 (h) For the sole purpose of reporting the results of an election
40 conducted pursuant to this section, upon completion of the ballot

1 count, the elections official shall divide the jurisdiction into
2 precincts pursuant to Article 2 (commencing with Section 12220)
3 of Chapter 3 of Division 12 and shall prepare a statement of the
4 results of the election in accordance with Sections 15373 and
5 15374.

6 (i) The elections official shall compile an index, list, or file of
7 all persons who voted in an election conducted pursuant to this
8 section. If the elections official uses data-processing equipment
9 to compile the index, list, or file, he or she shall retain an accurate
10 copy of that index, list, or file in electronic format for a period of
11 10 years.

12 (j) (1) If an election is conducted pursuant to this section, the
13 eligible entity shall report to the Legislature and to the Secretary
14 of State regarding the success of the election, including, but not
15 limited to, all of the following:

16 (A) Any statistics on the cost to conduct the election.

17 (B) The turnout of different populations, including, but not
18 limited to, and to the extent possible, the population categories of
19 race, ethnicity, language preference, age, gender, disability,
20 permanent vote by mail status, and political party preference.

21 (C) The number of ballots that were not counted and the reasons
22 they were rejected.

23 (D) Voter fraud.

24 (E) Any other problems that become known to the eligible entity
25 during the election or canvass.

26 (2) Whenever possible, using the criteria set forth in paragraph
27 (1), the report shall compare the election conducted pursuant to
28 this section to similar elections not conducted pursuant to this
29 section in the same jurisdiction or comparable jurisdictions.

30 (3) Within six months after the date of the election or before
31 the date of a subsequent election conducted pursuant to this section,
32 whichever is sooner, the eligible entity shall do all of the following
33 with respect to the report required by this subdivision:

34 (A) Submit the report to the Legislature in compliance with
35 Section 9795 of the Government Code.

36 (B) Submit the report to the Secretary of State.

37 (C) Post the report on the Internet Web site of the elections
38 official.

39 (k) For purposes of this section, “eligible entity” means both of
40 the following:

1 (1) San Diego County.

2 (2) A city, school district, community college district, special
3 district, or other district or political subdivision organized pursuant
4 to state law, whose boundaries are located wholly within San Diego
5 County.

6 (l) This section shall remain in effect only until January 1, 2021,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2021, deletes or extends that date.

9 SEC. 2. Section 4001 of the Elections Code is amended to read:

10 4001. (a) Notwithstanding Section 4000 or any other law, as
11 a pilot program, elections in San Mateo County, Yolo County,
12 Sacramento County, and Monterey County may be conducted
13 wholly by mail if all of the following conditions are satisfied:

14 (1) The governing body of the city, county, or district, by
15 resolution, authorizes the all-mailed ballot election and notifies
16 the Secretary of State of its intent to conduct an all-mailed ballot
17 election at least 88 days before the date of the election.

18 (2) The election does not occur on the same date as a statewide
19 primary or general election or any other election conducted in an
20 overlapping jurisdiction that is not consolidated and conducted
21 wholly by mail pursuant to this section.

22 ~~(3) The election is not a special election to fill a vacancy in a~~
23 ~~state office, the Legislature, or Congress.~~

24 ~~(4)~~

25 (3) (A) At least one ballot drop-off location is provided per city
26 or the ballot drop-off locations are fixed in a manner so that the
27 number of residents for each ballot drop-off location does not
28 exceed 100,000 on the 88th day before the day of election,
29 whichever results in more drop-off locations. A ballot drop-off
30 location shall be open during business hours to receive voted ballots
31 beginning 28 days before the date of the election and until 8 p.m.
32 on the day of the election.

33 (B) (i) For San Mateo County and Yolo County, at least one
34 polling place is provided per city.

35 (ii) For Monterey County and Sacramento County, at least one
36 polling place is provided for every 50,000 registered voters, with
37 a minimum of one polling place per city, in a manner so that the
38 number of registered voters for each polling place does not exceed
39 50,000 on the 88th day before the day of election, whichever results
40 in more polling places.

1 (iii) A polling place provided pursuant to this subparagraph
2 shall allow voters to request a ballot between 7 a.m. and 8 p.m. on
3 the day of the election if they have not received their ballots in the
4 mail or if they need replacement ballots for any other reason.

5 (C) Upon the request of the city, county, or district, the elections
6 official, at his or her discretion, may provide additional ballot
7 drop-off locations and polling places.

8 (5) The elections official delivers to each voter all supplies
9 necessary for the use and return of the mail ballot, including an
10 envelope for the return of the voted mail ballot with postage
11 prepaid.

12 (6) The elections official delivers to each voter, with either the
13 sample ballot sent pursuant to Section 13303 or with the voter's
14 ballot, a list of the ballot drop-off locations and polling places
15 provided pursuant to paragraph (4), and also posts that list on the
16 Internet Web site of the county elections office.

17 (7) The return of voted mail ballots is subject to Section 3017.

18 (8) (A) The polling places provided under this section are at
19 an accessible location and are equipped with voting units or
20 systems that are accessible to individuals with disabilities and that
21 provide the same opportunity for access and participation, including
22 the ability to vote privately and independently.

23 (B) A ballot drop-off location provided for under this section
24 shall consist of a locked ballot box located in a secure public
25 building that meets the accessibility requirements for a polling
26 place.

27 (9) Elections in the county conducted pursuant to this section
28 may be held on no more than three different dates.

29 (b) (1) If the county conducts an all-mailed ballot election
30 pursuant to this section, on or before December 31, 2017, the
31 county shall report to the Legislature and to the Secretary of State
32 regarding the success of the election, including, but not limited to,
33 any statistics on the cost to conduct the election; the turnout of
34 different populations, including, but not limited to, to the extent
35 possible, the population categories of race, ethnicity, age, gender,
36 disability, permanent vote by mail status, and political party
37 affiliation; the number of ballots not counted and the reasons they
38 were rejected; voter fraud; and, any other problems that become
39 known to the county during the election or canvass.

(2) Whenever possible, using the criteria set forth in paragraph (1), the report of the county shall compare the success of the all-mailed ballot election to similar elections not conducted wholly by mail in the same jurisdiction or comparable jurisdictions.

(3) The report of the county shall be submitted to the Legislature pursuant to Section 9795 of the Government Code within six months after the date of the all-mailed ballot election or before the date of any other all-mailed ballot election subject to this section to be conducted in the county, whichever is sooner.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 4002 is added to the Elections Code, to read:

4002. (a) Notwithstanding Section 4000 or any other law, a special election to fill a vacancy in a state office, the Legislature, or Congress may be conducted wholly by mail if all of the following conditions are satisfied:

(1) The legislative body as the governing body of the eligible entity, by resolution, authorizes the all-mailed ballot election and notifies the Secretary of State of its intent to conduct an all-mailed ballot election at least 88 days before the date of the election.

(2) The election does not occur on the same date as a statewide primary or general election or any other election conducted in an overlapping jurisdiction that is not consolidated and conducted wholly by mail pursuant to this section.

(3) The elections official delivers to each voter all supplies necessary for the use and return of the mail ballot, including an envelope for the return of the voted mail ballot with postage prepaid.

(4) The elections official delivers to each voter, with either the sample ballot sent pursuant to Section 13303 or with the voter's ballot, a list of the ballot drop-off locations and polling places provided pursuant to paragraph (4), and also posts that list on the Internet Web site of the county elections office.

(5) The return of voted mail ballots is subject to Section 3017.

(6) (A) The polling places provided for the election are at an accessible location and are equipped with voting units or systems that are accessible to individuals with disabilities and that provide the same opportunity for access and participation, including the ability to vote privately and independently.

- 1 (B) A ballot drop-off location provided for the election shall
- 2 consist of a locked ballot box located in a secure public building
- 3 that meets the accessibility requirements for a polling place.
- 4 (7) Elections conducted pursuant to this section may be held on
- 5 no more than three different dates.